

HAMILTON COUNTY BOARD OF COMMISSIONERS
MARCH 24, 2003

(1:44:15)

The Hamilton County Board of Commissioners met on Monday, March 24, 2003 in the Commissioners' Courtroom in the Hamilton County Government and Judicial Center, One Hamilton County Square, Noblesville, Indiana. The Commissioners met in Executive Session. President Steven Holt called the public meeting to order at 1:45 pm. A quorum was declared present of Commissioner Christine Altman, Commissioner Steven C. Dillinger and Commissioner Steven A. Holt. The Pledge of Allegiance was recited. A moment of silence was held in recognition of the ultimate sacrifice that has been given by American and British soldiers in the past week in Iraq in sympathy for their families and loved ones.

(1:45:13)

Approval of Minutes:

Dillinger motioned to approve the minutes of March 10, 2003. Altman seconded. Motion carried unanimously.

Executive Session Memoranda:

Altman motioned to approve the Executive Session Memoranda of March 20, 2003 and March 24, 2003. Dillinger seconded. Motion carried unanimously.

Bid Opening (1:45:38)

E911 Cell Tower:

Mr. Mike Howard opened the E911 Cell Tower Bids. Form 96 and Bid Bond were included unless otherwise specified. 1) JDH Contractors, Inc. - \$124,100.00. 2) Nationwide Tower Co., Inc. - \$99,564.00. Mr. Howard referred the bids to the Sheriff's Department for review and recommendation at the next meeting. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Variance on Driveway Cut: (1:47:58)

Mr. Gordon Byers request a cut on 146th Street for a project to be developed by Marsh. It is located on the north side of 146th Street, south side of 141st Street. Through an interlocal agreement the county retains jurisdiction with respect to permitting and access to 146th Street. It is a project that started in 1997, starting in Noblesville with lengthy zoning review and engineering issues. Noblesville has unanimously approved certain commitments with respect to this site and approved the detailed development plan for this site. It is a PUD. They have met with the Noblesville Common Council and negotiated the ability on this site to reserve space for an urban interchange which might take place in the future. As a result of those negotiations we moved three or four buildings back. We agreed to dedicate approximately three acres of additional right of way to the City of Noblesville through the platting process. The land has an approximate

value of \$1 million per acre. As a result of that he is requesting approval of the two cuts with respect to this 40 acre site. The western most cut could be closed when substantial improvements are initiated on this urban interchange. The eastern most entrance would never be closed, it provides access to the site. Mr. Byers stated the county will have the authority to put a median up if it becomes a traffic issue on the western entrance. This is conditional upon the fact that it would not be closed until the urban interchange would happen. Altman asked if the commitments to Noblesville will be part of this agreement? Mr. Byers stated yes, those will be in the form called Commitments Attended to PUD and there is also a Letter of Intent that was made part of the minutes with the City of Noblesville. They will also be put with the plat. Noblesville will not sign the secondary plat until they are satisfied, they will be put in a separate instrument, Declaration of Restriction, that will be recorded that will impose the perpetual access easement and everything he is talking about. It will be in written form, recorded and to be reviewed by Mr. Howard and Mr. Huntley before they sign off. Mr. Howard stated there were written documents submitted to the city council that were approved and on the record. Ms. Altman asked that they be put as part of this agreement. She wants them incorporated and specifically referenced. Altman asked regarding closing the western access, is your landowner and developer waiving all compensation for that subsequent closure? Mr. Byers stated we set that up that there is perpetual common internal access easement, you will be working off the right of way. Mr. Howard stated the city's initial claim was to make that expressed as opposed to implied, but because of disclosure requirements the internal access easement was what the city required rather than the express that there would be no compensation. Also under existing law that inconvenience of access is not a taking, therefore because there is the perpetual non-exclusive easement throughout the property there would be no plaintiff withstanding. Altman stated she understands that, but laws change and she would like to tie that down now, say "subject to disclosure laws compensation is waived", if we can do that. Mr. Byers stated that was part of the prime negotiation, why we were willing to give up the three acres and move our buildings off of this ground. This value was to set it through the perpetual access easement. For us to attempt to sell property on SR 37 at high economic terms, there will be come ground that will be taken. We could not say there would be no compensation because the city recognizes there would be some compensation, but we have set it up that compensation would not be residual claims, but we would simply be taking certain parking. To protect the city we agreed to move the buildings so there would be no claim that we would have to move our buildings, so our whole business has been damaged. We have set it up that if this does happen at some point in the future, there will be takings of just parking lot areas. Altman stated as she understands it you do expect compensation when it is closed? Mr. Byers stated no, not from the closure but from the actual additional land that might be needed. Altman stated if it is not included in the grant you would obviously be entitled to that. Mr. Howard stated there are separate property issues, what they dedicate as right-of-way; what they have moved the buildings off to reduce compensation, as far as the closing itself, the minutes say they are not asking for compensation, but they are not willing to put it in the covenant due to disclosure issues. Altman stated if that is made part of this agreement incorporated with this discussion, that is fine. (1:57:53) Dillinger asked what is the Highway's position? Mr. Jim Neal stated they have reviewed this with Mr. Byers and with regards to the verbiage, we do not have heartache with that, we do

not have any heartache with the locations of the driveways. The only thing we ask is that all permits are obtained that are needed for the improvements, and all construction plans for the improvements within the 146th Street right of way have to be approved by the highway department before construction begins. Another issue we have is that they have started construction on the site and they have cut the driveways without a permit. Dillinger asked Mr. Byers why was that done? Did they not know they needed a permit? Mr. Byers stated he and the owner knew they needed a permit, the contractor on site was told that Noblesville has approved the detailed development plan, we paid our money to Noblesville, he did not know about the interlocal agreement. He cut it and Mr. Byers immediately had a fence put up, which was taken down. We have been to the site and informed the contractor that if it occurs again, it will be a \$2,500 fine, which will be reduced from what he receives. From the contractor's perspective everything was done and they did not know about the interlocal agreement. This property is annexed into the City of Noblesville, so they felt everything had been done. (2:00:01) Altman verified that the highway department does not feel that a perpetual covenant not to put a median at the western entrance is not a problem? Mr. Neal stated the covenant is not to put a median on the eastern entrance. We have looked at the separation from SR 37, while it is not everything we want, we can live with it. (2:00:22) Dillinger motioned to approve. Altman seconded. Altman stated the second was based on these changes being incorporated into the document. Dillinger re-motioned to approve it pending the approval requested by the highway department and the changes requested before. Altman seconded. Motion carried unanimously.

Clay Terrace: (2:01:09)

Mr. Eric Mallery, Lauth Property Group, stated they want to bring the Board up to speed on the Clay Terrace project and to go into detail on our Tax Increment Financing bond request. Mr. Mallery stated when they originally undertook this 67 acre project the layout was a simple strip center layout. Through a lot of hurdles and obstacles in the way of this project, we were able to take this 67 acres and do several things. One of the major obstacles was the county line. Rangeline Road, which is a county road, bisects the property that runs straight through the middle of the property. There were several other issues such as gas lines, setbacks, etc. Mr. Mallery stated Clay Terrace will be located at 146th Street and US 31 in the southwest quadrant. The site extends from 146th Street to US 31 which includes the extension of Rangeline Road. As we developed the project we came up with a main street format, the buildings, which are retail and office, line up along Rangeline Road. We have been able to create a lot of interest in Rangeline Road with very colorful round-abouts, pavers, all the landscaping is done close and the buildings are styled in a 1930's and 1940's period. This will be a true main street downtown feel. One of the things that is unusual is the amount of right of way that is being dedicated to the public improvements. Mr. Mallery showed the drawings of the site plan. There is also widening of 146th Street which is approximately 20 acres of land. This is not a typical strip center, this is a life style center which is meant to keep the pedestrians and the consumers on the site for a longer period of time. Mr. Mallery stated the thing that sets our request apart from other bond financing requests is the project we are developing and more importantly is the amount of real estate that is being dedicated for public use. With 20 out of 67 acres, which is approximately 30% of the site. The

entire project is within the TIF district. All of the improvements that are contemplated are within the statute of TIF. The tax increment will easily cover this level of improvement and the construction risk to the county is buffered by the developer if the costs of county improvements exceed the estimate. That will be paid from the developer's share. If in the future there is a shortage of taxes before the COIT is tapped the property will be tapped. We will be putting a \$90 million investment that is ahead of any risk of the county's.

(2:07:42) Mr. Howard stated that taxpayer lien will be ahead of any other financing. Mr. Mallery stated that is correct. Mr. Mallery stated this development will support this improvement. Mr. Howard stated there is also proposed in this financing, a six month debt service reserve fund to be held by a trustee. The purpose of that fund is to allow adequate time to initiate for closure procedures should there be a problem. We know there will have to be some revenue pledged behind this to sell the bonds, but with the first lien against the remaining 47 acres of the total bond indebtedness of \$9 million and the semi-annual payment being in the neighborhood of \$400,000 to \$420,000 we feel comfortable that the comptroller of the land owner will write that check if there is a problem. Mr. Mallery stated absolutely.

(2:09:13) Altman asked if this is the first time the plan has been disclosed to the Commissioners? Mr. Howard stated as far as the actual development and buildings. There is a thoroughfare plan for 146th Street that goes back to 1987. Years ago there will lots being platted in Danbury Estates and the county purchased seven lots, because we new the ramp was going in. This surface street is part of that to help alleviate congestion at Greyhound Pass and US 31. The actual plan of where the road is going to be, he has been working with Mr. Downs and they have worked with the highway department. Carmel is willing to accept maintenance, even though it is our funding. The type of streets that will be dedicated are not traditionally the type maintained by the county highway department. The TIF district basically went in because the feeling was that 146th Street has been a county project and the improvements that help 146th Street and the bridge should be a county project. It took an interlocal from Carmel to transfer the project here and finding someone at these land prices to aggregate these parcels and we would have never built this project as a pure public project without a public/private partnership. Altman stated she appreciates that but in preliminary discussions she envisioned an access ramp to US 31 instead of a public street that is benefiting the development. Mr. Neal stated this is only part of it, all along the plan included reconnecting Rangeline Road with the ramps coming either coming off of Rangeline Road or 146th Street. We can't build any of those ramps at this time due to the restrictions put on by the State. This plan reserves the right of way for two different scenarios of interchange that could happen at this location. Mr. Neal stated the round about on the north end, when the ramps come in, the round about will have to come out and be transferred back to a normal intersection. Holt asked what is the status of the ramp from 146th Street down to US 31? Mr. Neal stated pending the Parson's study they will either call for a tight diamond or go with the original plan by Bernard Lochmuller. Their site plan can accommodate two different scenarios. Holt asked if we have offered to do the tight diamond and pay for it ourselves? Mr. Neal stated that was part of our original design when we built the overpass, but INDOT would not give us permission to start it at that time. Mr. Howard stated when we went to INDOT about the ramp on the east side, INDOT made it clear that the northbound Keystone movement to 146th Street was the last cut they would permit. Holt asked if the TIF is drafted in such a way that we could

come back and do the tight diamond ramp in the existing TIF? Mr. Howard stated we would have to refinance the bonds and take the increment that was coming and extend that stream. If we look at the rate that INDOT progresses there is a good chance that these bonds and the bonds from the other side will be substantially retired before INDOT comes forward. Holt stated a change in administration might change that. Mr. Howard stated you may have to find more revenue to get there. Mr. Howard stated if these TIF funds can be used for any improvements located within or benefitting the allocation area, that tight ramp would meet that nexus test. Holt stated it would be tremendous for the developer because it would take thru traffic out of the traditional main street. Mr. Mallery stated they like the thru traffic as well. Altman asked if the diamond ramps is dedicated right of way in this plan? Mr. Joe Downs stated those are reserved and we are not to build there. (2:18:14) Holt stated given what you are asking us to do, would it make sense to dedicate it now and have us give you permission of use until such time as it comes to pass? Mr. Mallery stated if the reservation is lifted we would like to use the land if sometime down the road INDOT determines they are not going to put the ramps in the middle, we would then like to have use of the land. That is why it is a reservation. The reservation could go on to whatever time INDOT feels appropriate. We don't want to dedicate the land now and have to deal with it in the future. Holt stated we would not want to pay 2012 land prices either. Mr. Mallery stated the land prices that would be paid, if INDOT chose to come back through, would be greatly reduced because there would be no buildings on there. The most we would have would be landscaping and parking lot. They will not be improved land. Altman asked if you would be willing to reserve 231 in that section with your ability to landscape and use it as overall development. Altman stated you have asked us to do something unusual in this TIF, she is asking as part of your development plan in part of your consideration of what you are asking us to do, whether you can assure or INDOT will not be acquiring land to connect on alternate 2, the one to the south? Mr. Neal stated for the purpose of discussion the tight diamond is "A" and the spaghetti bowl is "B". On option "B" if it is dedicated right of way they could not use it because it will be dedicated as limited access. Altman stated we could lock in an option price. Holt stated or give them a lease until used. Holt stated if we are going to reimburse you \$4 million because of excess right of way, now is the time to do this, not 10 or 15 years from now. Mr. Mallery stated there are several factors that have to be considered all together. You are talking about the acquisition of right of way, as much as you are acquiring 16 acres, which does not include the reservation, there are other things that we are doing that are not being reimbursed for by the TIF, which are TIF expenses. Because of schedule and logistic reasons we have decided to do all the grading to get the roadbed set. When we come in to do Rangeline Road, the gas line which runs through the property has to be moved, we are not putting that on the TIF either. There is threatened litigation that goes away with our acquisition. That is a potential benefit to the county. We don't want to dedicate something that we think will be released to us in the future. If it is released to us and we have dedicated it, then we have to go through an auction or whatever to get our property back. We really don't want to do that. Holt suggested doing a dedication with the county's agreement to a vacation in the event the State ultimately elects not to do Option "B". Mr. Downs stated one of the questions would be when exactly that occurs, because they are going to go through the design process. They are looking at three options right now and that could be a year and then

they go into a right of way acquisition phase which could take another 5-10 years, then they might not start construction for another 20 years. When would that moment would be when they pick one? Holt stated he does not know, but you have that situation now because you agreeing not to use it until they decide. That does not change anything. Mr. Mallery stated we have been working closely with Parsons on the design, we strongly feel that this tight diamond is where they are going. (2:23:40) Holt asked what if you put it in the language that in the event the tight diamond is constructed the county agrees to vacate the dedication? Mr. Mallery stated done. That would work. Holt asked if the highway department was comfortable that the State would never do both? Mr. Neal stated as long as we have both bases covered and when they make one decision. Mr. Howard stated we want a dedication subject to a license back to you that you can use it for parking, landscaping, etc., and in the event the license would continue until the State is ready to bid the project. If they do not do the project it would be vacated. Mr. Mallery stated it would be simpler if we would know the two alternatives for ramps are mutually exclusive, once the tight diamond goes, the other one would be lifted and it would come back to us. Altman clarified, we have 16 acres sitting and four acres for the ramp, which is the four acres we are talking about for the overlay? Mr. Mallery stated yes. Mr. Howard stated it is 16 + 4? Mr. Mallery stated yes. Altman stated we are only reimbursing the 16? Mr. Howard stated the resolution as stated says we are paying them the value less 10%. (2:26:33) Dillinger motioned to approve Resolution 3-24-03-1, A Resolution Concerning the Issuance of Bonds and Financing of Project From Redevelopment Fund with the caveats that have been discussed. Altman seconded. Motion carried unanimously.

(2:27:33)

Bethel Missionary Church:

Mr. Mark Lowe, Pastor of Bethel Missionary Church, stated they are requesting to build on to an existing building at 11818 SR 32 East. We are desiring to add a family life center on the north side, a connecting building between that building and the present building and front addition to the building on the south side that will give us more bathroom, office and foyer space. We are also adding a drive up porch on the front to add to the handicap and elderly. We need the space for children's ministries and fellowship areas. We have outgrown the present facilities. Holt stated this request passed the Plan Commission with a unanimous vote. Altman motioned to approve. Dillinger seconded. Motion carried unanimously.

Fall Creek Township Assessor Building Lease: (2:29:43)

Ms. Pam Zagar requested approval of the building lease for the new Fall Creek Township Assessor/Trustee building that is being built at 116th Street and Brookschool Road. Mr. Howard stated he has reviewed the lease and it appears to be a standard lease document with a pro-rata common area, maintenance and standard lease provisions. It is only a 5 year lease. Altman stated we can't guarantee funding from council for more than one year. Mr. Howard stated this would be subject to funding. Altman stated we would need an addendum giving the county the right to terminate without penalty in the event funding is not there for the following year. Mr. Hensley stated this is the same lease

Delaware Township has and very similar to Clay Township. Mr. Howard stated your standard provision says that the lessee will make their best effort to obtain funding in all subsequent years, however in the event there is no funding they shall or may upon 90 days notice prior to the end of the year terminate the lease. Dillinger asked Ms. Zagar when her current lease is up? Ms. Zagar stated October 9th. Dillinger asked when do you need to move in? The schedule is the building is to be done the end of August. The contractor is well aware of her end date. Dillinger motioned to approve. Altman seconded. Altman asked how did you determine the market rate for the property? Mr. Hensley stated it is the same rate that she is presently paying per square foot. Altman asked if it is completely built out like your current space? Are there any additional costs? Mr. Hensley stated he is not charging her any additional costs than what they are presently paying. There is just a flat monthly fee. Altman confirmed it is a gross lease with so much per month, which is fine. Motion carried unanimously. Altman would like an addendum on the termination clause. Dillinger stated that was not part of the motion. Altman stated she thought that was negotiated. Dillinger stated that is fine, she does not want to hold this up. Altman stated we will add the addendum with the termination language that she thought was agreed to. Holt stated he is not sure it was, but he does not have a problem with that either. If we can put the addendum on there, it is fine. (2:37:31) Holt asked Mr. Howard to look at the statute on the lease issue.

Holt called a break. Holt called the meeting back to order at 2:55.

Plat Approvals

Village of West Clay Replat Block C, Section 3004:

Hampton Cove:

Centennial Townhomes, Building 16:

Mr. Steve Broermann presented plats for Village of West Clay Replat Block C, Section 3004; Hampton Cove; and Centennial Townhomes, Building 16 for approval. Altman motioned to approve. Dillinger seconded. Motion carried unanimously.

Highway Business (2:56:32)

Open Road Cut Permits:

Mr. Jim Neal requested approval of Open Road Cut Permits: 1) RDCUT 2003-007 - Vectren Energy Deliver at 10612 Park Avenue approximately 289' north of centerline of 106th Street to retire gas service due to gas leak. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Acceptance of Bonds/Letters of Credit - Highway Department:

Mr. Neal requested acceptance of Bonds and Letters of Credit for the Highway Department: 1) HCHD #B-03-0020 - St. Paul Fire and Marine Insurance Company Bond No. 400SD9975 issued on behalf of Lauth Property Group in the sum of \$15,000 for a driveway to be cut on south side of 146th Street, 450' west of intersection of Greyhound

Pass and 146th Street referenced Clay Terrace, to expire February 27, 2004. 2) HCHD #B-03-0021 - Erie Insurance Company Permit Bond No. Q876170136R issued on behalf of YC Company Inc. in the sum of \$5,000 for a driveway cut at 12131 E. 196th Street, Noblesville to expire March 11, 2004. 3) HCHD #B-03-0022- Fidelity and Deposit Company Permit Bond issued on behalf of Poindexter Excavating Inc. in the sum of \$5,000 for temporary construction entrance on Brookschool Road approximately 2000' south of SR 238 to expire March 18, 2004. 4) HCHD #B-03-0023 - Fidelity and Deposit Company Permit Bond issued on behalf of Poindexter Excavating Inc. in the sum of \$5,000 for temporary construction entrance on Brookschool Road approximately 2000' south of SR 238 to expire March 18, 2004. 5) HCHD #B-03-0024 - Safeco Insurance Company Subdivision Bond No. 6200098 issued on behalf of Centex Homes in the sum of \$61,871.55 for stone base, HAC binder, HAC surface, concrete curbs, street names and signs for Hayden Run, Section 2 to expire March 17, 2005. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Release of Bonds/Letters of Credit - Highway Department: (2:57:28)

Mr. Neal requested release of Bonds and Letters of Credit for the Highway Department: 1) HCHD #B-00-00010- United States Fidelity & Guaranty Company Maintenance Bond #400KD7963 issued on behalf of Brooks Landing Section 1. 2) HCHD #B-02-0026 - Western Surety Company Permit Bond for irrigation system at Towne Road and 106th Street in Clay Township. 3) HCHD #B-02-0029 - Merchants Bonding Co. IN4260 for commercial drive, 3350' east of Summer Road on 191st Street in Wayne Township. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Agreements (2:58:13)

Subdivision Inspection Agreements:

Lakeside Park Subdivision, Sections 1 and 2:

Mr. Neal requested approval of Subdivision Inspection Agreements, HCHD #A-03-0003, for Lakeside Park Subdivision, Sections 1 and 2 with Roehling Enterprises, Inc. and United Consulting Engineers and Architects, Inc. Altman motioned to approve. Dillinger seconded. Motion carried unanimously.

Non-Standard Signs Statement of Agreement and Liability: (2:58:53)

Mr. Neal requested approval of the Statement of Agreement and Liability for Non-Standard signs between Hamilton County and Shelbourne Estates Property Owners Association; Claybourne Property Owners Association; Centex Homes for Lakes at Hayden Run Subdivision, Section 1; Centex Homes for Intercoastal at Geist, Section 1; and Centex Homes for Hayden Run Subdivision, Section 1. Altman motioned to approve. Dillinger motioned to approve. Motion carried unanimously.

Acceptance of Streets (2:59:34)

Springmill Villages, the Meadows, Section 3B:

Mr. Neal requested acceptance of streets for Springmill Villages, the Meadows, Section 3B. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Concurrence Correspondence:

Mr. Neal requested approval of the list of correspondence concerning investigations of requests for signage on Hamilton County Roads dated March 24, 2003. Altman motioned to approve. Dillinger seconded. Motion carried unanimously.

Official Action (3:01:33)

Regulatory Signs for Springmill Villages, the Meadows Section 3B:

Mr. Neal requested approval of the official action for installation of regulatory signs in Springmill Villages, the Meadows Section 3B. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Acceptance of Right of Way: (3:02:09)

236th Street:

Mr. Neal requested acceptance of right of way along 236th Street on the north side, east of Tollgate Road for rezone of Morse Inboards. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

116th Street, West of Towne Road:

Mr. Neal requested approval of dedication of right of way along 116th Street west of Towne Road. This is part of the University High School project. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Condemnation of Parcels (3:02:51)

106th Street and Springmill Road:

Mr. Neal requested approval for condemnation of a parcel 04 on 106th Street and Springmill Road for the landowner - Bruce A. Bodner of .542 acres +/- of permanent right of way and .009 acres +/- temporary right of way. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Request to Advertise:

Bridge #255, Six Points Road over Elijah Jay Ditch:

Mr. Neal requested permission to advertise for replacement of Bridge #255, Six Points Road over Elijah Jay Ditch. This will be pending approval of the funding, which will be in front of County Council at their April meeting. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Bridge #27, Centennial Road over Finley Creek:

Mr. Neal requested permission to advertise for replacement of Bridge #27, Centennial Road over Finley Creek and sign the Title Sheet. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Bridge #138, East 136th Street over Cool Creek:

Mr. Neal requested permission to advertise for rehabilitation of Bridge #138, East 136th Street over Cool Creek and sign the Title Sheet. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Bridge #176, 136th Street over Mud Creek Hydraulic Design: (3:04:43)

Mr. Matt Knight stated Bridge #176, 136th Street over Mud Creek, this bridge is a substantial structure. As we were in preliminary design we looked at a couple of different options and our design firm looked at a couple of options. Our standard policy is to design bridges to pass 100 year storm underneath the structure completely contain within the structure with a one foot or more of space above the flood. In this case, that would result in a pretty substantial bridge. We found that if we did not design this structure as a 100 year storm bridge and replaced in-kind we would save \$250,000 to \$300,000 and would result in a much smaller project. In our discussions, 136th Street is a fairly minor collector road, there are a lot of alternate routes. We made a decision at that time to build a bridge that is an in-kind replacement. We will maintain the profile of the road as it is today and replace the bridge with an equal size bridge. We applied for our permits with that design. Recently, as the Surveyor's office reviewed our regulated drain crossing permit application they brought to our attention that our decision was not in keeping with the results of the recently completed study done by Christopher P. Burke on the Mud Creek Watershed. As part of that study Burke recommended that we replace all of our bridges with 100 year storm structures so as not to impede the channel. As part of the DNR permit we still have to look at back water considerations. In looking at our hydraulics with the current design we do decrease the backwater just slightly, by 1" or so. It is not backing up any more water than the current structure is. Obviously if we built a 100 year structure it would decrease even further. There are no known problems upstream with the bridge. We have talked to a property owner and he did not express concerns in that regard. He feels pretty comfortable with the design we have. He would like to confirm with the Commissioners that they were informed of this and concurred with our direction. Plans are completed, right of way is purchased and we are ready to start construction. Dillinger motioned to approve the Highway's recommendation. Altman seconded. Motion carried unanimously.

Resurface Contract 03-1:

Mr. Neal requested permission to advertise for Contract Resurface Project 03-1, Various Roads in White River Township. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

(3:11:13)

Inmate Road Work Crews:

Mr. Brad Davis stated the Commissioners approved the establishment of three inmate work crews to work in the county. The funding is for the guards for supervision of those crews. Two of the crews are to come to the highway department, where we have had one crew previously. Mr. Davis requested permission to establish the second crew for the highway department and to go to County Council to request funding for equipment to set up the second crew. The funding would be used for a trailer, mowers, weed eaters at a approximate cost of \$12,000 to \$14,000. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Bridge Sufficiency Report:

Holt stated he has received the LTAP Bridge Sufficiency Report. Holt forwarded his report to Matt Knight, Highway Department.

Highway Meeting:

Holt asked Mr. Davis to set up a meeting between the Commissioners and Highway Department to review priorities and operations. Mr. Swift will coordinate the dates.

(3:14:14)

Insurance

Health Insurance Plan:

Mr. John Ditslear introduced Sheri Burton-Fleck, our new Nyhart Consultant and Kim Zorrello, Sr. Vice President of Nyhart. Mr. Ditslear discussed the county's health insurance renewal. Included in the plan are the revisions to pre-existing conditions, covering wigs after chemotherapy, covering genetic testing only when medically necessary, cochlear implants and removes any limits on organ transplants. Ms. Randall stated the language has also been included for the privacy law that will be in effect April 14th. Dillinger motioned to approve the Insurance Committee's recommendation. Altman seconded. Motion carried unanimously.

Pacific Life Renewal: (3:16:32)

Mr. Ditslear requested approval of the renewal with Pacific Life relative to our insurance coverage. Mr. Ditslear stated there have been discussions about other alternatives from our \$125,000 deductible that we currently have. He has looked at the costs for \$150,000, \$175,000, and \$200,000. Mr. Ditslear stated we have discovered with ICM, that we have had 27 notes that they have worked with last year and of those 9 have been poor or fair. We just received news of 8 more situations where they may be working with them. Based on that information Mr. Ditslear would recommend remaining at \$125,000 with the idea of going to \$150,000 or \$175,000 deductible. Dillinger motioned to stay as we are. Altman seconded. Motion carried unanimously. Ms. Randall presented the Pacific Life Renewal and Nyhart Renewal for signature.

Life Insurance:

Mr. Distlear stated currently The Hartford carries our life insurance. We have a rate

guarantee thru April 2005. We have received other quotes, but they do not meet the specifics that The Hartford does. Mr. Ditslear recommended we renew with The Hartford. If we do find a carrier that meets their benefits and price, we are not committing ourselves to a year. Dillinger motioned to approve. Altman seconded. Altman stated life insurance is a biddable quantity and we should be on the market bidding it under the bidding laws. Are we doing that now? Dillinger stated no, we don't bid insurance under public bidding laws. We do get quotes and anyone that is interested in quoting can quote through the Insurance Committee. When the quotes came in, the benefits were different than what we have now. They decreased coverage at the older ages, where our current policy does not. Altman stated this is a defined quantity that she does not believe is exempted from the public bidding laws. Maybe we should clarify that. Agent control is fine, but in terms of product, she does not believe that has the distinction that meets the exemption under professional services. Dillinger stated he disagrees with that. Altman would like to find out for sure. Mr. Howard stated as long as we are bidding apples to apples. Mr. Ditslear stated we received quotes from Pacific Mutual, Lafayette Life, American United and Fort Dearborn. All of those had a reduction in benefit. We can not find someone who would not have a reduction in benefit. Mr. Howard asked if those were apples to apples quotes? Mr. Ditslear stated not really, all those carriers knew we did not have a reduction but would not match the benefit. Altman stated it is like any other bid, they have the opportunity to vary any bid and we determine whether it is a responsive bid. Dillinger stated he has been bidding insurance for 34 years and he has never had that with any commercial or governmental entity. Altman stated it is not a law that exempts professional services, it is case law and it carves out only those items because of the discretion of the provider or the quality of the provider is what excludes under professional services. This should be set out as comparison pricing for the good of the public. We are clearly over the statutory limit on what we spend on life insurance. Dillinger asked Mr. Howard to check into this. Dillinger and Holt approved. Altman opposed. Motion carries (2-1).

(3:25:00)

Privacy Rules Certification:

Ms. Sheena Randall stated the Department of Health and Human Services has established a new law called Health Insurance Portability Accountability Act Privacy Law for plans that have over \$5 million in paid claims in the previous year. The deadline is April 14th and we did have more than \$5 million in claims this last year. At your last meeting you voted to appoint her as the Privacy Officer. The law requires several aspects regarding employer responsibilities. One of those would be to execute a business associate agreement with vendors that we directly contract with. To date she only has the contract with the Nyhart Company. It is her goal, before the next meeting, to have a contract with the reinsurer and with ICM. It also provides that we establish a certification list of who would have access to any private medical information and those individuals have to be listed in this contract. We did not address this during the Insurance Committee meeting because she was not aware of it until last week. She did discuss it with John Ditslear and he discussed it with Dillinger. Her recommendation will be to include the Board of Commissioners, the Auditor, herself and John Ditslear as individuals who have

access to that information. Dillinger motioned to approve. Altman seconded. Motion carried unanimously. Ms. Randall stated we also discussed including the County Attorney. Dillinger included that in his motion. Altman amended her second. Motion carried unanimously.

Insurance Claim: (3:27:44)

Ms. Randall stated there was a claim presented for payment during Executive Session and she requested approval of the payment of that claim. Dillinger motioned to approve the request from our employee to pay that claim under the circumstances. Altman seconded. Motion carried unanimously.

Disability Deductions: (3:28:31)

Ms. Randall stated our Disability Deductions are calculated each year as far as the cost to employees and that change is effective in our plan year which is April 1st. We are currently charging a fee of \$4.00 per pay check to employees. That rate should be increased to \$6.21. Ms. Randall requested approval to disburse that notice to our employees and Nyhart also will request employees complete an enrollment form so Nyhart can update their files. Employees can chose that deductions be pre-tax or post-tax. Dillinger asked if that will create a problem for the Auditor? Ms. Mills stated they think they have it worked out. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Flex Plan: (3:30:00)

Ms. Randall stated a checking account has been established for the Flex Plan. We will bring the agreement from Nyhart to the first meeting in April. Employee training sessions will begin April 14 & 15.

Fiscal Analysis: (3:30:59)

Mr. Mike Reuter stated his purpose today is to report on the financial condition of the county. There are two substantial revenue sources that the county receives, Property tax and County Option Income Tax. Recently the State provided a limited COIT analysis that is alarming. Hamilton County has been struggling over the last year over the reported collections for 2000. Mr. Reuter stated each year Robin Mills and he have met with the state budgeting agency to review our collections as well as the number of returns reported. In June 2002 they met with the budget agency to receive the 2000 collection information as well as the 2000 number of returns reported. At the time we met with the budget agency, they reported that our collections had only increased 1.8% from the year 1999 to 2000. The number of returns had only increased 2.88%, which was inconsistent with what we had seen in the prior three years of an average of approximately 6%. The collections amount of the returns was alarming, but so were the number of returns because that is not what we seeing as a county wide increase with building permits, assessed valuation, student enrollment, voter registration and many other factors. The State recently released a new analysis that is much earlier in the information that they provided and they have reported the number of returns for 2001 as well as the collections. In Hamilton County for the year 2000 they reported the collections down 1.06% and the

number of returns reported down by approximately 1.5%. That only further aggravated the situation of trying to figure out what happened in the year 2000 and has now been exaggerated by what has been reported for the year 2001. With the information that the budget agency was provided by the Department of Revenue, they revised their projections and provided us with an estimated distribution with 2004, which we would not typically get until the summer of 2003. They reported the distribution for Hamilton County would be down 20.5%. That is substantial and will have a devastating impact on the services that this county will be able to offer in the future. The information we have been provided over the last year, he has requested several documents relating to the 2000 collection information and he is currently requesting several other documents that would try to help us through the process of determining what happened. What went wrong and what is the process. Right now we are receiving limited information and he does not have enough information to provide you recommendations into the future in regards to what projects and/or expenses the county can incur. (3:35:20) Mr. Reuter stated his recommendation is to hire a team of auditors that will compile and meet with the budget agency and Department of Revenue to try to determine what did go wrong. Why were our collections averaging 6% for 1997, 1998 and 1999 and then only increased by only 2.88% in one given year and the next year show a decrease of 1.45%. He believes there is reason to question and it is reasonable for us to ask for the information and he would recommend that our approach would be to gather the information and meet with those agencies before we take further measures. In addition to his recommendation he ask that you interview and hire those auditors initially on an hourly basis because the scope of the work yet is not known how deep we will have to go or how far we would go. This will allow us to make an initial assessment in addition to all the information he has provided and then we can make another recommendation back stating what we think the entire project will cost. (3:36:56) He also requests the Commissioners direct the Hamilton County Auditor to send a letter out the various departments requesting their assistance. This is financial crisis, the county does remain in strong financial condition currently and is not a concern of getting through the year 2004, but it is dealing with the years following. We do have a cash balance on hand and that will provide us the resources to do the analysis, but it will also provide us with the resources to get through these difficult times and get ourselves back on track. The worse case scenario, by going through this process, that we will have a better understanding of the process and hopefully we can make recommendations to remove some of the large swings we have experienced since the inception of COIT in Hamilton County. Since 1998 we have never experienced this wide of a swing in collections, even as we proceeded through the last recession of 1993. Collections still increased by 9%. We have reason to believe or would like to research our possibilities. Altman stated thinking through the problem with the 20% dip in COIT, if we are not successful in pursuing this, do we at the county have the ability to increase the actual property tax levy or have we hit the levy limit? Mr. Reuter stated we are currently at the maximum levy available to us and appealing for some beyond that. The current maximum levy based on the State's non-farm personal income average over the last six years and that was recent legislation passed last year, we collect that, but we also appeal for our greater amount which is the difference between our three year average growth in assessed valuation, meaning property values of Hamilton County, and we appeal for that difference. We are collecting the maximum levy available to us. That does not mean we

can not issue property tax bonds and increase your taxes in that way. Altman asked typically property tax bonds are for capital projects, is there any relief statutorily that you are aware of, for us to increase our levy on an emergency basis based upon operational needs? Mr. Reuter stated no, there are very limited opportunities to appeal. The additions of courts is an appealable item, the three year growth in assessed valuation, which we have already done and will continue to do, which was built in to the fiscal plan of the future. Mr. Reuter stated there are limited opportunities for you to appeal and collect more property tax than what is available to you. Altman asked under existing state law? Mr. Reuter stated yes. Altman asked if this is something that we should be working with our state legislatures to correct? We are not alone, Rush County could be bankrupted because of this and she is looking at several counties that could face serious economic problems. With the levy limit caps in place the jurisdictions will have no choice but to actually cut government services that are essential. Our courts, jails, and overcrowding we do not have a choice on. Mr. Reuter stated we don't have that issue right now, but we could face that if the collections were to continue to vary or decrease over time. We would hope to see the collections would be consistent with the growth of our community, which also translates in to services and right now that is not occurring and did not occur for the last two years. (3:41:39) Holt stated Mike has asked us to consider two action items and the first one was a request that we approve the recommendation to retain an auditing firm. Dillinger motioned to retain an auditing firm. Altman seconded. Motion carried unanimously. Holt stated the second request was that we send a letter to our elected officials and department heads requesting restraint in 2003 operations on the budget that has already been approved. Mr. Reuter stated that they review all discretionary spending. Dillinger so moved. Altman seconded. Motion carried unanimously. Mr. Howard suggested that by motion you authorize your President to send a public records request to the appropriate State agencies requesting all such documents as recommended by members of the Hamilton County Council, Mr. Reuter, legal counsel, etc. Altman so moved. Holt seconded. Motion carried unanimously.

(3:43:11) Altman addressed the Auditor, obviously to retain personnel to help us with that issue we will need funding. Altman requested that we placed on the Council agenda or by Council's own motion. Holt stated on behalf of the Board and the County he thanked Mr. Reuter for all his efforts he is putting forth on this.

Commissioner Committee Reports (3:43:55)

E911 Ameritech Addendum - Noblesville:

Dillinger requested approval of Addendum #3 To Enhanced 911 Service Agreement for the City of Noblesville. Dillinger stated Jeff Hendericks has requested an additional station for Noblesville for 911. Dillinger stated Option 2, single pre-payment of \$77,318 which saves \$18,000. Altman seconded. Altman asked what was the E-911 Committee's recommendation? Ms. Mills stated they were in favor of it. Motion carried unanimously.

Centerline Addressing RFP: (3:45:24)

Dillinger stated the E911 Committee has reviewed the quotes on the Centerline Addressing. We approved what the specs said and were very specific. We will be meeting

with the three companies that were narrowed down to before this week. We will let them ask any questions and then everyone will be on the same page. We have had a company contact us that said that they had a way to reimburse us for our expenses. We would have to pay it up front and they could reimburse us \$50,000 a year. He thinks that is something we should look at. He has set up a meeting with them before the other meeting to hear what they have to say and we may add them to one of the three proposals. Altman asked when are we looking at getting this done? Dillinger stated it is better to go slow, than to keep making mistakes over and over. We started this process in May and we wanted to give the companies that were quoting at least two or three weeks to go back and address all of the things we had told them about.

Security Committee: (3:48:27)

Holt stated the Security Committee met last week and received a presentation by Norman Miller of L3 Communications on x-ray equipment. After listening to that presentation it was a unanimous vote of the Security Committee that we should have x-ray equipment at the east entrance of the Judicial Center. The recommendation was to acquire a Line Scan 215 Series X-Ray machine at a cost of approximately \$26,000. Holt motioned that the Board of Commissioners send a favorable recommendation to the County Council for funding for the acquisition for that piece of equipment. Altman seconded. Altman asked if we need to solicit quotes? Mr. Howard stated from \$26,000 to \$75,000 you have to get three quotes from responsible people who are known to be in the business. We do not have to bid. Altman confirmed that we do need to get quotes? Mr. Howard stated yes. Holt amended his motion that we request the funding from the County Council but that no purchase would be made nor selection until we have two additional quotes. Altman amended her second. Holt and Altman approved. Dillinger opposed. Motion carries 2-1.

Maximus Letter: (3:50:37)

Holt stated he received a letter from Maximus regarding recovery of SCAAP (State Criminal Alien Assistance Program) Funds. Holt asked the Sheriff if he has a position on whether we would want to contract with Maximus to attempt recovery of these funds? Sheriff Carter stated he thinks it is premature and he will prepare a response for the next meeting. Holt asked to table this issue and asked Mr. Swift to distribute copies of the letter to his fellow Commissioners and the Auditor.

Indiana Housing Finance Authority: (3:51:41)

Holt stated he received a letter from the Indiana Housing Finance Authority requesting the Chief Executive Officer to sign off on whether or not we had greater than \$300,000 of federal funds for housing. Holt stated he signed it and left the yes or no blank, he is pretty comfortable it is a no. He asked the Auditor to confirm the answer and get it sent back.

ISSD Van: (3:52:22)

Holt stated the Commissioners received a letter from the ISS Department regarding the 1994 Econoline Van. Holt asked if we want to take a position? Mr. Swift stated that

was dealt with at the last meeting.

Intelecorp Request:

Holt stated we received a letter from Ms. Casali stating that Intelecorp has asked to purchase data from the court system. Holt asked if this should be referred to the Court Administrator for input and bring it back? Altman motioned to approve. Dillinger seconded. Motion carried unanimously.

Administrative Assistant (3:53:23)

Public Access Room Paper:

Mr. Fred Swift stated we have a public access room in the historic courthouse. There is a printer where records can be printed. The biggest users are the title companies and various real estate firms. Last year we spent between \$7,000 and \$8,000 in paper to feed that printer. Mr. Swift asked if you would like to retrieve any of those costs. There is a coin operated printer that is available that we could purchase. The approximate cost is \$5,800. Mr. Howard stated you have to have the ability to put account numbers on the printer so the big users can charge everything to their account. Coin operated would be ok, but the big firms will want an account that is payable at the end of the month. Altman motioned to explore the options. Dillinger seconded. Motion carried unanimously.

Historical Society Request: (3:57:43)

Mr. Swift stated the Hamilton County Historical Society has requested permission to replace and relocate their Conner Mill Millstone. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Purdue Road School:

Mr. Swift asked if any of the Commissioners wanted to be registered for the Purdue Road School? Holt and Dillinger asked Mr. Swift to register them.

Demonstration on Courthouse Square: (3:49:47)

Mr. Swift stated he has received a request from James Loy who would like to have a demonstration on the courthouse square, this Saturday, in support of the troops serving in the current military action. The Sheriff and the Noblesville Chief of Police are aware of it.

Smoking in County Buildings: (4:00:49)

Altman stated Jeff Rushforth has put together a package on smoking in the county buildings and she encouraged her fellow commissioners to review the information. We have received complaints of smoke filtrating up through offices. Altman stated she would want to look at it at the next meeting.

Sheriff: (4:01:40)

Deputy Ken Fagel:

Sheriff Doug Carter stated Deputy Ken Fagel passed away Thursday, March 19th. Sheriff Carter thanked the Human Resources staff for their assistance to the family.

Security Plan:

Sheriff Carter stated he is continuing to work on the Security Plan and will present it to the Board at the end of April.

Attorney: (4:02:41)

Resolution 3-24-03-1, Clay Terrace Project:

Mr. Howard requested signatures on the revised version of Resolution 3-24-03-1, A Resolution Concerning the Issuance of Bonds and Financing of Project From Redevelopment Fund for Clay Terrace.

Auditor (4:03:01)

Ordinance 3-23-03-A, Amending Planned Development :

Ms. Mills requested signatures on Ordinance 3-23-03-A, An Ordinance to Amend the Planned Development Section of the Hamilton County Zoning Ordinance 3-19-90 Hamilton County, Indiana regarding Bethel Missionary Church, 11818 State Road 32 East, Noblesville.

Purdue Extension Contractual Services Agreement:

Ms. Mills requested approval of the Purdue Extension Contractual Services Agreement for the extension educators for 2003. Dillinger motioned to approve. Holt seconded. Motion carried unanimously.

Acceptance of Bonds/Letters of Credit - Drainage Board: (4:04:40)

Ms. Mills requested acceptance of Bonds and Letters of Credit for the Drainage Board. 1) HCDB-2003-00004 - Bond Safeguard Insurance Company Performance Bond No. 14-801144 for Hinkle Creek Estates monumentation and markers - \$1,2000.00. 2) HCDB-2003-00005 - Bond Safeguard Insurance Company Performance Bond No. 15-801143 for Hinkle Creek Estates Erosion Control - \$18,576.00. 3) HCDB-2003-00006 - Bond Safeguard Insurance Company Performance Bond No. 15-801142 for Hinkle Creek Estates storm sewer and subsurface drain - \$280,199.00. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Clerk of the Circuit Court Monthly Report:

Ms. Mills requested approval of the Clerk of the Circuit Court Monthly Report. Altman asked if she explained the negative \$3,000? Ms. Mills stated no. Altman would like to defer approval of that until we have an explanation from the Clerk. Altman motioned to table. Dillinger seconded. Motion carried unanimously.

Payroll Claims:

Ms. Mills requested approval of Payroll Claims. Dillinger motioned to approve Payroll Claims. Altman seconded. Motion carried unanimously.

Vendor Claims:

Ms. Mills requested approval of Vendor Claims. Dillinger motioned to approve. Altman seconded. Motion carried unanimously.

Altman motioned to adjourn. Dillinger seconded. Motion carried unanimously. (4:06:00)

Commissioners Correspondence

June Settlement Information Letter from Robin Mills

2004 COIT Distribution Letter from Robin Mills

City of Noblesville Legal Notice of Public Hearing:

Proposed rehabilitation of SR 38

Beam, Longest & Neff Notice of Transmittals:

Bridge #257, Lantern Road over Shoemaker Ditch
Bridges #135 & 237
96th Street & Towne Road Intersection Improvement

IDEM Notice of Sewer Permit Applications:

Blessed Theodore Guerin